



March 29, 2001

Mr. Charles M. Allen, II
Richardson Police Department
P. O. Box 831078
Richardson, Texas 75083-1078

OR2001-1236

Dear Mr. Allen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 145474.

The Richardson Police Department (the “department”) received the following request for information:

1. All intradepartmental disciplinary actions/records on Officer Goodman.
2. All complaints filed against, upon, or in any association with Officer Goodman.
3. A count on the number of arrests and number of persons booked into the Richardson City Jail on December 17, 2000 between the hours of 12:00 am through 2:00 pm.

Although you have not asserted any exceptions to disclosure, you have provided a copy of the department’s “Daily Log” for December 17, 2000 and state that the information unrelated to the request was redacted. By letter dated January 25, 2001, you have submitted additional documents.

With regard to your letter of January 23, 2001, you state that a “complete copy of the officer’s Internal Affairs file was provided to the requestor along with a redacted printout of arrested and incarcerated persons on December 17, 2000 between the hours of 12:00 AM through 2:00 PM.” Further, you inform us that the redacted portions of the submitted “Daily Log” are unrelated to the request for information. Pursuant to section 552.301(a) of the Government Code, a governmental body that receives a written request for information that it wishes to withhold from public disclosure must ask for a decision from this office. Therefore, the Public Information Act (the “Act”) is only triggered when a governmental

body wants to withhold information responsive to the request for information. *See* Gov't 552.301(a). Based on your representations in your letter of January 23, 2001, it appears that you have released the requested information to the requestor and have submitted the portion of the "Daily Log" that is not responsive to the request for information. It is not necessary to request a decision from this office to withhold information that is not responsive to the request because the Act is not triggered.

Further, a governmental body must ask for an attorney general's decision and state the exceptions that apply within ten business days of receipt of the written request. *See* Gov't Code § 552.301(b). You have failed to raise an exception to disclosure for any of the submitted information. Therefore, you have failed to request a decision in accordance with section 552.301(b) of the Government Code. Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with section 552.301 results in the legal presumption that the requested information is public and must be released unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.--Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to Gov't Code § 552.302); Open Records Decision No. 319 (1982). We note that the submitted information contains a license plate number which is excepted by section 552.130 of the Government Code. Section 552.130 provides a compelling reason to overcome the presumption of openness. Accordingly, we have marked the license plate which you must withhold under section 552.130 of the Government Code. You must release the remaining information that is responsive to the request.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the

governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jennifer Bialek
Assistant Attorney General
Open Records Division

JHB/seg

Ref: ID# 145474

Encl. Submitted documents

cc: Mr. Link H. Gotcher, L.A.
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(w/o enclosures)